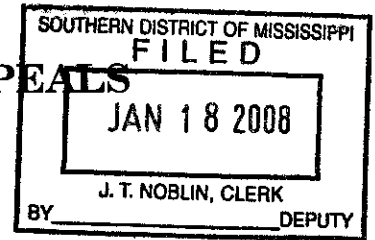


**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

\_\_\_\_\_  
No. 07-60215  
\_\_\_\_\_



U.S. COURT OF APPEALS

**FILED**

JAN 9 2008

CHARLES R. FULBRUGE JR.  
CLERK

IN RE: AARON FINLEY

\_\_\_\_\_  
Movant  
\_\_\_\_\_

Motion for an order authorizing  
the United States District Court for the  
Southern District of Mississippi to consider  
a successive 28 U.S.C. § 2254 application

Before HIGGINBOTHAM, DAVIS, and SMITH, Circuit Judges.

PER CURIAM:

Aaron Finley, Mississippi prisoner # 66987, seeks authorization to file a successive 28 U.S.C. § 2254 application challenging his 1996 conviction for capital murder based on allegedly newly obtained evidence.

We may authorize the filing of a second or successive § 2254 application if the applicant makes a prima facie showing that (1) his "claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable;" or (2) "the factual predicate for the claim could not have been discovered previously through the exercise of due diligence" and such facts, "if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense." 28 U.S.C. § 2244(b)(2), (b)(3)(C).

Finley has not met this standard. Accordingly, IT IS ORDERED that the motion for authorization to file a successive § 2254 application is DENIED.

A true copy

Attest:

Clerk, U. S. Court of Appeals, Fifth Circuit

By 

Deputy

New Orleans, Louisiana JAN 11 2008